THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition (M/S) No. 1509 of 2006

Ravindra Singh S/O Satpal Singh, R/O House No. 172 Shekhpuri, Tehsil Roorkee, District-Haridwar.

… **Petitioner.**

Versus

1. State of Uttaranchal through Collector, Haridwar, District Haridwar.
2. Commissioner Garhwal Mandal Camp Dehradun, District Dehradun.

… **Respondents.**

Sri P.Saini, Advocate, learned counsel for the petitioner.
Sri Nand Prasad, Learned Standing Counsel for the respondents.

Dated September 28, 2006.
PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents. Both the counsels are ready to argue the case finally at the time of admission.

The petitioner has preferred this writ petition against the order dated 12-3-2004 passed by Respondent No.1 (Annexure No. 5) and the orders dated 3-7-2006 and 25-8-2006 passed by the Commissioner, Garhwal Mandal, (Annexure Nos. 11 and 13) whereby the revision filed by the petitioner against the order dated 12-3-2004 in Stamp Case under Section 47-A of the Stamp Act has been dismissed.

Learned counsel for the petitioner has submitted that an ex-parte order was passed on 12.3.2004 by the Collector Haridwar in a Stamp Case No. 14 of 2003 State Vs. Ravindra Singh and it was ordered that deficit stamp duty along with penalty and interest be recovered from the petitioner. Aggrieved by the said order, the petitioner went up in revision before the Commissioner

under Section 56 of the India Stamps Act. The revision was dismissed in default on 03-7-2006. The petitioner then moved restoration application, which was dismissed vide order dated 25.8.2006.

It is pertinent to mention that the learned Commissioner had already admitted the revision on 16-4-2004 and interim order was also granted in favour of the petitioner. The learned Commissioner has committed a manifest error of law in dismissing the revision in default. When a revision was admitted once, the same could have been decided on merits even in the absence of the parties. The principles of the Code of Civil Procedure shall apply to the Stamp Act.

In the facts and circumstances of the case, the impugned order passed by the learned Commissioner dated 3-7-2006 and 25-8-2006 are liable to be set aside. Writ Petition succeeds.

The writ petition is allowed. The impugned orders passed by the learned Commissioner Garhwal Revision dated 3-7-2006 and 25-8-2006 are set aside. The Revision No.24/2003-04 Ravindra Singh Vs. State is restored to its original number. The learned Commissioner is directed to decide the said case on merit in accordance with law. Till the decision of the Revision, no recovery of the deficit stamp duty, etc. shall be made from the petitioner.

(B.S. Verma, J.)

RCP